

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION

ROBERT BAKER

PLAINTIFF

v.

CAUSE NO. 1:17CV34-LG-RHW

**JACKSON COUNTY SHERIFF'S DEPARTMENT;
JACKSON COUNTY, MISSISSIPPI; and
JOHN AND JANE DOES 1 THROUGH 10**

DEFENDANTS

**ORDER GRANTING DEFENDANT JACKSON COUNTY
SHERIFF'S DEPARTMENT'S MOTION TO DISMISS**

BEFORE THE COURT is the [3] Motion to Dismiss filed by the Jackson County Sheriff's Department pursuant to Federal Rule of Civil Procedure 12(b). Plaintiff Robert Baker, through counsel, filed a [6] Response to the Motion, stating that he does not oppose the Motion. Having considered the Motion and the relevant law, the Court is of the opinion that the Motion should be granted.

Under Federal Rule of Civil Procedure 17(b), the Department's capacity to be sued is determined by the law of the State of Mississippi. Under Mississippi law, a county sheriff's department, like the Jackson County Sheriff's Department, "does not enjoy a separate legal existence" apart from the County and thus lacks capacity to be sued. *See Brown v. Thompson*, 927 So. 2d 733, 737 (Miss. 2006); *Payne v. Dickerson*, No. 3:07CV3-P-D, 2008 WL 1724003, at *6 (N.D. Miss. Apr. 10, 2008). Therefore, Plaintiff is unable to state a claim upon which relief can be granted against the Department. *See, e.g., Tuesno v. Jackson*, No. 5:08-CV-302(DCB)(JMR), 2009 WL 1269750, at *1 (S.D. Miss. May 7, 2009) (dismissing claims against county sheriff's department because that department was not a political subdivision or

legal entity in and of itself, but was merely a department of the County).

IT IS THEREFORE ORDERED AND ADJUDGED that the [3] Motion to Dismiss filed by the Jackson County Sheriff's Department is **GRANTED**. All claims against the Jackson County Sheriff's Department are **DISMISSED WITH PREJUDICE**.

SO ORDERED AND ADJUDGED this the 23rd day of March, 2017.

s/l Louis Guirola, Jr.

LOUIS GUIROLA, JR.
CHIEF U.S. DISTRICT JUDGE